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Letter dated 31 May 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached third report from Ethiopia submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

06-36978 (E) 160606

Annex

Note verbale dated 30 May 2006 from the Permanent Mission of Ethiopia to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Federal Democratic Republic of Ethiopia to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and, with reference to the latter's note dated 27 April 2006, has the honour to transmit herewith the third report of the Federal Democratic Republic of Ethiopia on counter-terrorism.

Enclosure

Third report of the Federal Democratic Republic of Ethiopia submitted to the United Nations Counter-Terrorism Committee established pursuant to paragraph 6 of Security Council resolution 1373 (2001)

Introduction

Ethiopia submitted its first report and second supplementary report to the Counter-Terrorism Committee (CTC) in January and October 2002, respectively. Arising out of the second report, CTC posed further questions and elicited further comments from the Government of Ethiopia with regard to the implementation of resolution 1373 (2001). Set out below are the responses from the Government of Ethiopia to the issues requested by CTC.

Implementation

1. Regarding the implementation of subparagraph 1 (b) of resolution 1373 provisions addressing the matter i.e., to specifically address terrorism, have been incorporated in a draft of national legislation. The draft has been finalized and submitted to the Council of Ministers for an approval before final approval by the Ethiopia Parliament.

2. As part of implementing subparagraph 1 (c) of resolution 1373, a draft proclamation on the Prevention and Suppression of Money Laundering and Financing of Terrorism has been prepared and distributed to all concerned government organs for further consideration. In the meantime, the National Bank of Ethiopia has issued a directive to Government and all private banks to have control over the fund movement and report accounts that may have links to terrorist organizations. The Addis Ababa branch of the Commercial Bank of Ethiopia has managed to block account number 01782686900 of Mr. Hersi Alim Osman, Barakat International Companies, which is one of the 46 entities suspected to have attachment to terrorist organizations.

3. In its fight against money-laundering, in addition to the above-stated draft proclamation on Prevention and Suppression of Money Laundering and Financing of Terrorism, Ethiopia has taken a significant measure by providing provisions in the new Penal Code. Article 684 of the new Penal Code clearly states that a natural or legal person that generated proceeds by illegal arm sales, corruption, drug trafficking and concealed the source of the proceeds is punished with rigorous imprisonment ranging from five to fifteen years or with a fine not exceeding 100,000 Ethiopian Birr.

4. As part of implementing subparagraph 2 (d) of resolution 1373, Ethiopia has also taken specific measures by providing provision for preventing the use of its territory to commit offences against third States or their nationals.

5. Article 261 of the new Penal Code states that any natural or legal person that engages in an act of terrorizing any other State is punished with rigorous imprisonment of ten years. In addition, Article 262 of the new Penal Code deals with offences against foreign Heads of States, governments, foreign ministry

delegates or families, or representatives of international organizations, or internationally protected persons either on their person, institution, premises or their vehicles. Offences are punishable with a rigorous imprisonment of ten years. In case death occurs, provisions dealing with offences against life or person will be applicable.

6. In its fight against denying safe haven to terrorists, Ethiopia has conducted investigations regarding regional transnational terrorist threats to westerners and US military officials in the Ogaden region. Ethiopia has been cooperative particularly with the United States on terrorist activities. To counter threats from elements of the Somali-based Al-ittihad al-Islami (AIAI), Ethiopia has also undertaken increased military effort to control its lengthy and porous border with Somalia.

7. Ethiopia has taken a variety of security measures at Bole International Air Port. A new security system that allows the tracking of terrorists and terrorist supporters has been developed and installed. A new more secure passport that is machine-readable and that includes anti-tampering features has also been introduced.

8. In addition, in order to conduct a thorough search and security check of all passengers and air planes, Ethiopian Air Lines, in close cooperation with International Air Transport Association (IATA) has trained its employees in Air Port Safety and Security. Several trainings have also been provided to Ethiopian Air Lines staff on basic aviation security awareness by Ethiopian Air Ports Security.

9. Article 243 of the new Penal Code deals with illegally entering into Ethiopia, providing any assistance in the illegal entry into and illegal exit out of the country by way of providing fake (false) travel documents, identity cards or assisting in any manner to enable the illegal immigrant to stay in the country. Ethiopia has also adopted a new immigration law and has also completed a draft of a new refugee law that will prevent the misuse of asylum by suspected terrorists to gain entry into Ethiopia.

10. As far as implementing subparagraph 3 (d) of resolution 1373 is concerned, Ethiopia has ratified three more conventions.

The ratified conventions are:

- Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons including Diplomatic Agents.
- International Convention Against the Taking of Hostages.
- International Convention for the Suppression of Terrorist Bombings (1977).

Ethiopia is working on the ratification of the remaining international instruments based on identified priorities.

11. Ethiopia has also ratified the OAU Convention on the Prevention and Combating of Terrorism in order to combat terrorism at the continental level. The Government of Ethiopia is also considering to sign and ratify the Protocol to the OAU Convention on Prevention and Combating of Terrorism so as to ensure the effective implementation of the Convention in Africa.

12. As part of its efforts to strengthen the fight against transnational organized crime, Ethiopia has signed the United Nations Convention against Transnational

Organized Crime. Currently, the Government of Ethiopia, through its constitutional procedure, is undertaking the ratification of the Convention and its protocols. Regarding corruption, which is one of the transnational organized crimes, Ethiopia has signed the United Nations Convention against Corruption and the African Convention on Preventing and Combating Corruption.

13. As far as drug trafficking is concerned, Ethiopia is party to the single Convention on Narcotic Drugs of 1961, Convention on Psychotropic Substances of 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. In its fight against transnational organized crime at regional level, Ethiopia has also ratified the Nairobi Protocol for Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa.

14. The new Penal Code contains many offences that constitute an act of terrorism and that are committed in relation to an individual or collective undertaking with the aim of seriously disturbing public order through intimidation or terror.

15. The following are lists of acts which constitute an act of terrorism in the new Penal Code when they are committed with the purpose of seriously disturbing the public order.

- wilful attacks on life, wilful attacks on the physical integrity of persons, abduction and unlawful detention and the hijacking of planes, vessels, or any other means of transport.
- theft, extortion, destruction, and also computer offence.
- the production and keeping of machines, dangerous or explosive devices.
- the production, sale, import or export of explosive substances.
- the purchase, keeping, transport or unlawful carrying of explosive substances or device made with such explosive substances.
- the detention, carrying, and transport of weapons and ammunition.

Apart from playing its part in the international war against terror, Ethiopia seeks to curtail domestic terrorism through the above provisions that are incorporated in the new Penal Code.

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Letter dated 29 May 2006 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Criminal Tribunal for the former Yugoslavia, pursuant to paragraph 6 of Security Council resolution 1534 (2004).

I would be grateful if you could transmit the present letter and its annexes to the members of the Security Council.

(*Signed*) Fausto **Pocar**
President

06-37176 (E) 090606

ANNEX I

Assessment and Report of Judge Fausto Pocar, President of the International Criminal Tribunal for the Former Yugoslavia, Provided to the Security Council Pursuant to Paragraph 6 of Council Resolution 1534 (2004).

1. This report is submitted pursuant to Security Council resolution 1534 (2004) adopted on 26 March 2004 in which the Council, in paragraph 6 of the resolution, requested the International Criminal Tribunal for the Former Yugoslavia ("International Tribunal") "to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the Completion Strategy of the International Tribunal, explaining what measures have been taken to implement the Completion Strategy and what measures remain to be taken, including the transfer of cases involving intermediate and lower rank accused to competent jurisdictions".[1]

2. I was elected to the Presidency by the Judges of the International Tribunal on 17 November 2005 after having served as Vice-President. While this is my second report presented to the Security Council pursuant to resolution 1534 (2004), it is the first report that represents the achievements and progress of the International Tribunal under my leadership.

I. Introduction

3. During the reporting period, the three Trial Chambers of the International Tribunal continued to function at maximum capacity hearing six trials simultaneously and managing 22 cases in the pre-trial stage (including contempt cases). The cases tried were: *Milošević*; *Orić*; *Hadžihasanović and Kubura*; *Mrkšić, Radić and Šljivančanin*; *Krajišnik*; *Martić*; and *Prlić, Stojić, Praljak, Petković, Ćorić and Pušić*, which is the first of the three large multi-accused trials to be conducted by the International Tribunal. The Trial Chambers issued one Judgement in *Hadžihasanović and Kubura* on 15 March 2006. In addition, the trial proceedings were closed in the *Orić* case on 10 April 2006, with judgement to be rendered later this month. Proceedings in the *Krajišnik* case will close in July 2006, with judgement expected to be rendered in late August or early September 2006. Current predictions are that proceedings in *Martić* will close in November 2006, with judgement rendered shortly thereafter. Proceedings in *Mrkšić, Radić and Šljivančanin* will be finalized by December 2006, with judgement expected in early 2007. In addition, the Trial Chambers proceeded with four contempt cases involving six accused: *Šešelj* and *Margetić*; *Marijačić and Rebić*; *Jović*; and *Križić*. Judgement was rendered in *Marijačić and Rebić* on 10 March 2006. Also, one guilty plea was heard in *Rajić* and Sentencing Judgement was rendered on 8 May 2006.[2]

[1] This present report should be read in conjunction with the previous four reports submitted pursuant to Security Council resolution 1534 (2004): S/2004/420 of 24 May 2004, S/2004/897 of 23 November 2004, S/2005/343 of 25 May 2005, and S/2005/532 of 30 November 2005.

[2] *See* Enclosures I, II.

4. In addition, the Trial Chambers have continued to work efficiently on preparing cases for trial. During the reporting period, the Trial Chambers issued over 172 written and 15 oral pre-trial decisions on such issues as the form of the indictment, challenges to jurisdiction, applications for provisional release, adjudicated facts, and the admissibility of written witness statements under Rule 92*bis*.[3] In early July 2006, the two other multi-accused trials, *Milutinović, Šainović, Ojdanić, Pavković, Lazarević, Đorđević and Lukić* and *Tolimir, Miletić, Gvero, Pandurević, Beara, Popović, Trbić and Borovčanin* are scheduled to start, and the *Šešelj* trial will commence in August after the close of the *Krajišnik* case. The commencement of these trials will leave the Trial Chambers with six ongoing trials to be concluded.

5. The Appeals Chamber has also continued to operate at full capacity issuing 103 pre-appeal decisions in cases pending before the International Tribunal and the International Criminal Tribunal for Rwanda ("ICTR"), since the last report.[4] In addition, the Appeals Chamber has disposed of 19 interlocutory appeals and two referrals, and has delivered final judgements in the *Stakić* case, the *Nikolić* case, and the *Naletilić and Martinović* case.[5] By July, final judgements in the *Ntagerura et al.* case and the *Gacumbitsi* case will also be rendered. Within the next month, the Appeals Chamber will hear the appeal in the *B. Simić, M. Simić, Tadić and Zarić* case and, in July, the appeal in the *Ndindabahizi* case. Judgements are expected shortly thereafter. The disposal of these appeals will leave the International Tribunal with 11 appeals from judgement on its docket.[6]

6. At present, 35 accused in 16 cases are awaiting trial (not including the contempt cases). These numbers represent a decrease of 9 accused since the last report due to the start of new trials and referral of cases under Rule 11*bis* to national jurisdictions. Of these 35, 17 have been provisionally released.[7]

II. Enquiries into the Deaths of Milan Babić and Slobodan Milošević

7. As the Security Council is aware, the deaths of Milan Babić and Slobodan Milošević occurred in the reporting period. During the 31 March 2006 video-link conference with the Security Council, I undertook to provide the Council with an update on the measures taken by the International Tribunal following their deaths. I now turn to briefly recall the steps taken in the initial aftermath and to further developments which have taken place following the video-link conference.

A. Milan Babić

8. On 5 March 2006, Milan Babić died in the United Nations Detention Unit ("UNDU") in The Hague. The Dutch authorities commenced their independent inquest under Dutch law as stipulated in

[3] These numbers reflect the decisions rendered up through 30 April 2006.
[4] *See* Enclosure VIII.
[5] *See* Enclosure VI.
[6] *See* Enclosure VII.
[7] *See* Enclosure IV.

Rule 33 of the International Tribunal's Rules of Detention.[5] On 6 March 2006, I was informed that Mr. Babić's death was believed to be a suicide. That same day, I issued a public order pursuant to Rule 33 of the Rules of Detention for a full internal inquiry into the circumstances surrounding the death. I ordered the internal inquiry to be conducted at the highest level and appointed Judge Kevin Parker to spearhead it, while instructing the Registrar of the International Tribunal and the UNDU to provide him every assistance.

9. The Dutch authorities issued their final report on the death of Mr. Babić on 23 May 2006. All indications from the Dutch report are that the cause of death is confirmed as suicide. The report is currently being translated and once that translation is finalized, Judge Parker will be able to complete his report on the internal inquiry into Mr. Babić's death. While Judge Parker has not yet been able to complete his investigations, he has provided me with regular briefings on the status of the inquiry.

B. Slobodan Milošević

10. On 11 March 2006, Slobodan Milošević died in the UNDU and the Dutch authorities began an independent inquest under the direction of the Public Prosecutor of The Hague under Dutch law. I immediately issued a public order that day under Rule 33 of the Rules of Detention for a full internal inquiry as I did for the death of Mr. Babić. Again, I ordered that the inquiry should be conducted by Judge Parker with the full cooperation of the Registrar and the UNDU. In order to assist the work of the Dutch independent inquest and Judge Parker's internal inquiry, I issued another public order on 14 March 2006 assigning a Trial Chamber to consider granting access to confidential materials filed in the *Milošević* case. Under Article 21(2) of the Headquarters Agreement Between the International Tribunal and The Netherlands,[6] the International Tribunal is obligated to "cooperate at all times with the competent authorities" of the Host State in order "to facilitate the proper administration of justice." On 16 March 2006, the Trial Chamber granted the Dutch authorities and Judge Parker full access to the *Milošević* case file.

11. The results of the independent investigations by the Dutch authorities into the death of Mr. Milošević became progressively available from 12 March until 11 May 2006 when the final toxicological report was provided. A report containing the results of the main body of the Dutch investigations was issued confidentially on 4 April 2006 by the Office of the Public Prosecutor. It concluded that Mr. Milošević died of natural causes from a heart attack and ruled out any suggestion of a suicide or criminal conduct. It confirmed that no indications of poisoning or of rifampicin had been found in the pathological and toxicological investigations, but indicated that further toxicological testing was continuing. These conclusions enabled the focus of Judge Parker's internal inquiry to become concentrated on the medical care provided to Mr. Milošević and related issues.

[5] Rules Governing the Detention of Persons Awaiting Trial or Appeal Before the Tribunal or Otherwise Detained on the Authority of the Tribunal, IT/38/Rev. 9, 21 July 2005.

[6] Agreement Between the United Nations and the Kingdom of the Netherlands Concerning the Headquarters of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991, S/1994/848, 27 May 1994.

12. Judge Parker will issue his report prior to my address to the Security Council on 7 June 2006. At that time, I will summarize the results and the Security Council will have already been forwarded copies of the report.

13. In addition to ordering the internal inquiries, I authorized the Registrar of the International Tribunal to make a request to the Swedish authorities to conduct a general, independent audit of the UNDU in accordance with Rule 33 of the Rules of Procedure and Evidence ("Rules") of the International Tribunal. On 30 March 2006, the Swedish authorities agreed, and I ordered a Trial Chamber to consider granting them access to certain confidential materials in the *Milošević* case file in order to assist the independent audit. The Trial Chamber subsequently granted the Swedish authorities full access to the confidential materials relevant for the audit on 7 April 2006. The results of the Swedish audit were transmitted to the Registrar of the International Tribunal on 8 May 2006 and made public on 15 May 2006. In general, the Swedish auditors were well satisfied with the operation of the UNDU although they also made a number of recommendations on ways to improve the conditions of detention of detainees and to ensure greater clarity in the management of the UNDU. This latter comment relates in part to the impact of court orders on the operations and security of the UNDU. In response to the audit report, a working group made up of representatives of the Judges, Registry and UNDU was established with a view to ensuring the efficient implementation of all recommendations made in the report. I intend to keep the Security Council apprised as to the result of the activities of this working group.

14. At the time of his death, Mr. Milošević had been on trial for 66 counts of genocide, crimes against humanity, grave breaches of the Geneva Conventions and violations of the laws or customs of war under three joined indictments. The alleged conduct encompassed over seven thousand allegations of criminal acts over eight years of conflict in the former Yugoslavia. The trial had lasted four years and was just a few months away from conclusion and the rendering of a final judgement.

15. Following the termination of the *Milošević* trial, the Judges of the International Tribunal have taken into consideration lessons to be learned in order to improve the management of future trials. In addition, the Judges proceeded to implement a number of concrete measures that were already under consideration in order to ensure that its future trials are conducted expeditiously while respecting due process considerations.

16. In the aftermath of the death of Mr. Milošević, three permanent Judges assigned to the case were suddenly made available to undertake other cases at the International Tribunal. Within a short period of time, I reorganized the workload of the Trial Chambers in order to ensure that all three Judges were fully engaged in judicial work. Two of the Judges were assigned to the cases of the multi-accused trials and the third Judge to the *Šešelj* trial. The assignment of these Judges to these cases was expedited by implementation of the recommendations of the Working Group on Speeding Up Trials chaired by Judge Bonomy, that are detailed below. In addition, the pending contempt cases were reassigned to these Judges.

III. Measures Taken to Implement the Completion Strategy

17. In my last report to the Security Council, I focused on the Working Group on Speeding Up Appeals and the impact of the implementation of proposals from the Working Group's report on the efficiency of the International Tribunal's appeals. I will not repeat what was said in that report, but will only confirm, that the measures taken by the Judges to amend the Rules of Procedure and Evidence in order to expedite the appeals process have had a substantial impact on the swift and fair disposal of interlocutory appeals and appeals from judgement by the Appeals Chamber. I should add, however, that the Rules concerning appeals remain under the close scrutiny of the Judges, and further innovative ways of expediting the appeals process without sacrificing due process are constantly being sought.

A. The Working Group on Speeding Up Trials

18. In this report, I will focus on the report of the Working Group on Speeding Up Trials, chaired by Judge Bonomy with the assistance of Judges Hanoteau and Swart, which issued its final report in February 2006. The Judges that formed the Working Group were deliberately selected because of their fairly recent appointment to the International Tribunal, which enabled them to cast a fresh and critical eye on the International Tribunal's procedures in light of their prior experience. The Working Group consulted widely within Chambers, including with individual Judges, as well as with the Registry when drafting their report. The Working Group also met with representatives of the Office of the Prosecutor and the Association of Defence Counsel. In its report, the Working Group made specific recommendations on ways to enhance the efficiency of proceedings by making greater use of the existing Rules. Following the issuing of that report, the Judges engaged in an open dialogue with one another addressing the feasibility of the recommendations, which culminated in an informal plenary of Judges in April 2006 and the adoption of specific proposals. These proposals are already being implemented by the Judges and their enforcement is having a fundamental impact on the way trials are conducted at the International Tribunal.

(i) The Role of the Pre-Trial Judge

19. One of the most important proposals made by the Working Group and subsequently adopted by the Judges, was to increase the effectiveness of the Pre-Trial Judge in ensuring that the parties meet their obligations to be trial ready upon the vacancy of a courtroom. This has enabled the International Tribunal to ensure that all of its multi-accused trials will be ready for trial by July 2006. As the Security Council is aware, the International Tribunal's trials comprise a combination of common law and civil law procedures, but in practice, trials at the International Tribunal have taken on a more common law, adversarial nature. Consequently, they have been substantially driven by the parties. The Working Group recommended that the Pre-Trial Judge take a much more proactive role in ensuring trial readiness. Adopting the recommendations of the Working Group, Judges have reversed the traditional roles of Pre-Trial Judge and Senior Legal Officer in the conduct of Rule 65*ter* conferences. Rule 65*ter* conferences, which focus on the critical task of implementing a work-plan for the presentation of the case, were normally conducted by the Senior Legal Officers of the Chambers. The Working Group considered that the parties might be more likely to respond to proposals and requests made by the Pre-Trial Judge than by the Senior Legal Officer. Taking this proposal on board, Pre-Trial

Judges are now active participants in the Rule 65*ter* conferences. This participation has conveyed the clear message to the parties that expeditious action is called for in each case, and the Pre-Trial Judge's pro-activity has increased the prospect of cooperation between the parties.

20. The Working Group also identified that there is considerable scope for the Pre-Trial Judge to become more actively involved in the management of the pre-trial process without increasing the number of formal hearings. On this basis, the Pre-Trial Judges in the multi-accused cases of *Prlić et al.* and *Milutinović et al.* have used Rule 65*ter*(D)(ii) to establish work plans and set strict timetables by which the parties must abide with respect to issues such as disclosure and agreed-upon facts. Pursuant to Rule 65*ter*(E), Pre-Trial Judges in these cases have ordered a considerable amount of specification to be provided by the Prosecution regarding its trial strategy within a set time limit that is not less than six weeks prior to the pre-trial conference, which is held pursuant to Rule 73*bis*. The Pre-Trial Judges have requested earlier production from the Prosecution of the final version of its pre-trial brief, which includes for each count a summary of the evidence that the Prosecution intends to bring in support of the alleged crime and the form of responsibility incurred by the accused, any admissions by the parties and a statement of matters which are not in dispute, as well as a statement of contested matters of fact and law. By requiring earlier production of such information, the Pre-Trial Judges in these multi-accused cases have gained a much greater understanding of the Prosecution's case allowing for more efficient management of the proceedings.

21. The Working Group on Speeding Up Trials also recommended that the Pre-Trial Judge apply Rule 66(A)(ii) at an early stage in the pre-trial process and order the Prosecution to make available to the Defence and to the Pre-Trial Judge the final statements of all witnesses whom the Prosecution intends to call at trial. The Working Group noted that there was no specific authority for provision of copies of witness statements to the Pre-Trial Judge, but recommended that the Pre-Trial Judge use the general power of Rule 65*ter*(B) to "take any measure necessary to prepare the case for a fair and expeditious trial" as a basis for insisting upon the provision of copies. It was recommended that the Prosecution be obliged to provide copies of witness statements accompanied by a clear indication of the Prosecution's strategy in the case and how, and by what evidence, the Prosecution intends to establish the guilt of the accused. The Working Group noted that statements currently provided at the pre-trial stage were those taken during the investigations while the final witness statements submitted under either Rule 89(F) or Rule 92*bis*, that is when a Chamber receives the evidence of a witness at trial either orally or in written form, are generally only prepared shortly before the evidence is submitted for admission at trial. It recommended that providing the final statement to be used in court to the Defence and the Pre-Trial Judge during the pre-trial phase would substantially increase the prospect of identifying the real points at issue prior to the commencement of the trial. Accordingly, the Pre-Trial Judges have begun to request final versions of statements at the Pre-Trial stage as a means of narrowing the issues in dispute prior to the commencement of the trial proceedings.

22. Other recommendations made by the Working Group and adopted by the Judges concern the implementation of an approach whereby the Pre-Trial Judge reviews all statements and documents, which the Prosecution intends to present in court. By doing so, the Pre-Trial Judge has been able to encourage the Prosecution to focus on the stronger parts of its case. Further, the Judges' demand for

greater knowledge of the details of a case has assisted them in making hard decisions regarding the appropriate length of each proceeding.

23. The Working Group further recommended that the Pre-Trial Judge more actively engage the Defence. The Pre-Trial Judge's active role in requiring the Prosecution to identify the real issues in its case prior to trial must be accompanied by greater engagement of the Defence in a process designed to streamline the trial. To engage the Defence more fully in this streamlining process, the Working Group recommended requiring the Defence to file its pre-trial Brief much earlier than previously practiced. It also suggested that the Defence be required to address in its brief more specifically those areas of the Prosecution's case that it disputes. Both of these recommendations have been taken up by the Pre-Trial Judges preparing cases for trial. In addition, Pre-Trial Judges have indicated that they are now requiring earlier disclosure of Defence expert testimony under Rule 65*ter*(H) during the pre-trial phase. By requiring earlier disclosure, the Pre-Trial Judges have been able to identify the points of agreement and disagreement between the parties before the trial commence.

24. Another recommendation by the Working Group and endorsed by the Judges is greater use by the Trial Chamber of evidence of adjudicated facts and documentary evidence from other proceedings under Rule 94(B). The Working Group urged Pre-Trial Judges to reach decisions on the admissibility of such evidence at the pre-trial stage. This proposal has led to a new policy of trial scheduling, which is detailed below.[10]

25. One of the fundamental areas, which has negatively impacted on expeditiousness of proceedings at the International Tribunal, concerns problems surrounding the efficient disclosure of evidence. The Working Group recommended that greater use should be made of the power to sanction a party for failure to comply with its disclosure obligations pursuant to Rule 68*bis* where that failure hampers the pre-trial process. This should ensure that the parties and their counsel understand that time limits are to be strictly adhered to. The Judges agree that, wherever necessary, full use will be made of the power to sanction parties for failures to comply with time limits.

26. These measures taken at the pre-trial phase indicate that the Judges of the International Tribunal have embraced fully the Working Group's important proposal that the Pre-Trial Judges make "full and imaginative use of the extensive powers available to them, to the extent that that can be done without infringing the rights of the accused". Indeed, enhanced pro-activity by Pre-Trial Judges has allowed the three trials of multiple accused to commence more quickly than originally foreseen. As pointed out previously, one of the multi-accused trials commenced in April 2006, and the other two multi-accused trials are scheduled to commence in July 2006. I note that it was originally envisaged that these last two trials would not be ready to commence prior to September and December 2006, respectively.

(ii) Early Re-Assignment of Pre-Trial Cases

27. I also highlight that, in addition to greater exercise of powers by the Pre-Trial Judges, the pre-trial preparation of cases is being made more efficient following the report of the Working Group by

[10] *Infra*, para. 27.

the enforcement of a new policy whereby a case is transferred as soon as possible to the Trial Chamber that will actually hold the trial. In this way, the Pre-Trial Judge will also be able to act as a permanent Judge on the trial bench. This has necessitated a major reshuffling of the structure of the Trial Chambers and the re-assignment of cases. However, the advantages to this approach are clear. Pre-Trial Judges seized of cases that they would not hear at trial would, at times, make decisions which should ideally have been made by the Trial Chamber that would conduct the trial. Alternatively, they would often be reluctant to make important decisions affecting the trial, considering that such decisions should more appropriately be made by the Chamber that would actually conduct the trial. This new policy to transfer cases at the earliest possible stage to the anticipated Trial Chamber that will hear the trial has enabled the Pre-Trial Judge who will later serve on the trial bench, as well as the pre-trial staff, to become familiar with the case. Early transfer has also ensured that there is no impediment to the efficient completion of pre-trial work and is expected to ultimately lead to a more expeditious trial.

(iii) Limiting the Length of the Parties' Cases

28. I now turn to a second important series of proposals made by the Working Group on Speeding Up Trials, which have been implemented by the Judges. The International Tribunal has long been aware that the length of its trials also depends on the complexity and breadth of the indictments. The philosophy behind the Prosecution's pleading practices is its obligation to victims. In practice, the length of the Prosecution case has meant that in order to accord the accused due process, Judges have had to allocate a comparable amount of time to the Defence case. The solution for the Judges, therefore, is to limit the length of the Prosecution's case to require the Prosecution to focus at trial on the strongest part of its case. This in turn will lead to a shorter Defence case.

29. One recommendation of the Working Group for implementing this proposal is wider use of Rule 73*bis*, which allows the Trial Chamber at the pre-trial Conference held shortly before the commencement of the trial to call upon the Prosecution to shorten the estimated length of the examination-in-chief of some witnesses and to determine the number of witnesses the Prosecution may call as well as the time available to the Prosecution for presenting evidence. Further, the Trial Chamber may fix the number of crime sites or incidents comprised in one or more of the charges with respect to which evidence the Prosecution may present. Greater use of the provisions of this Rule by the Judges has had the practical effect of limiting the Prosecution's case. To give but one example of its effectiveness, the Pre-Trial Judge in *Prlić, Stojić, Praljak, Petković, Ćorić and Pušić*, the first of the three multi-accused trials, was faced with a case that if left to the control of the parties, had the potential to last a number of years. In order to ensure that the trial would be completed within the Completion Strategy dates, while also taking into consideration due process concerns, the Pre-Trial Judge imposed a twelve-month time limit on the presentation of the Prosecution's case, which was accepted by the Prosecution.

(iv) Improving the Efficiency of the Trial Process

30. Other recommendations made by the Working Group on Speeding Up Trials and adopted by the Judges were based on the concept that the presentation of a party's case at trial should be increasingly in the hands of the Judges and that the trial should not be primarily a party driven process. In this respect, greater use is being made of written statements by witnesses in lieu of

presenting evidence by way of the examination-in-chief. In addition, Judges are exercising greater control over cross-examination of witnesses by the parties. The utility of these types of recommendations, however, turns upon the type of evidence at issue, as due process must always remain the overriding consideration. The Working Group also recommended further use of Rule 71, which allows non-controversial evidence in relation to the commission of specific crimes to be taken and presented in the form of depositions. This recommendation is being implemented in the multi-accused trials.

(v) Conclusion

31. As I stated at the outset, the issuance of the report by the Working Group on Speeding Up Trials led to an open dialogue between the Judges which culminated in an informal plenary of Judges in April 2006. At that plenary, Judges presented concrete examples to their colleagues of where they had followed the recommendations of the Working Group and the benefits in greater efficiency of pre-trial and trial proceedings that have resulted thus far. In addition, the Judges decided to address the problem of lengthy and complex indictments. The Judges were primarily driven by human rights considerations, specifically the right of all accused indicted by the International Tribunal to an expeditious trial and the right of those awaiting trial to be tried without undue delay. Following the plenary, the Rules Committee was seized of the matter and its proposals will be considered by another plenary convened for 30 May 2006.

(vi) Courtrooms

32. In my last report to the Security Council, I noted that the first report issued by the Working Group on Speeding Up Trials considered the issue of courtroom space, focusing on the possibility of building a fourth courtroom. I can report that it is no longer proposed to go ahead with that project at this time after weighing the anticipated costs against the projected savings and increased court time, which indicated that there was not likely to be an overall benefit gained. However, as I also reported in November 2005, in order to accommodate the trials of multiple accused, the International Tribunal began to remodel each of its three courtrooms. I am pleased to report that this project was successfully carried out between 28 November 2005 and 28 March 2006. All courtrooms have been remodeled with a new layout and new, scaled-down courtroom furniture. As a result, Courtroom One can now accommodate trials of up to 6 accused, Courtroom Two allows for trials of up to 3 accused, and Courtroom Three is able to provide for trials of up to 9 accused. The plans for the remodeling project were developed by the Facilities Management Unit in collaboration with the sections responsible for court operations, including the Court Management and Support Section, Conference and Language Services Section, Information Technology Support Section, and Security and Safety Section. All courtrooms are equipped to provide simultaneous interpretation in four languages. Providing adequate space for the number of additional participants and a fourth interpretation capability required a portion of the visitors' gallery in Courtrooms One and Three to be reassigned as support space (the interpreter's booth and holding cells). Courtroom Two continues to contain a small direct visitor viewing booth, and to supplement this, the option of using a room on the ground floor to view the proceedings by tele-link has been provided. New holding cells have also been created to accommodate the appropriate number of accused persons for each of the courtrooms.

(vii) E-Court

33. As was also stated in my last report, the International Tribunal has introduced an e-Court system to its proceedings. This system, as I explained, has the potential of enhancing our proceedings by integrating all case-related documents into a central electronic database, thereby eliminating the need for unnecessary paper filings and increasing the accessibility of information. E-Court has been applied to the *Mrkšić*, *Martić*, and *Prlić et al.* cases in accordance with the Practice Direction issued by my predecessor that mandated its application to all future proceedings at the International Tribunal. Unfortunately, the e-Court system still suffers from technical deficiencies and user problems, which are currently being rectified. For example, the Registry is providing ongoing e-Court training for staff in Chambers, the Registry, the Office of the Prosecutor and Defence Counsel in order to ensure future smooth functioning of the system. Once these difficulties are resolved, I anticipate that e-Court will increase the efficiency of our proceedings, particularly at the judgement-writing phase.

34. Finally, I must emphasize, as I did in my last report, that the realization of the International Tribunal's Completion Strategy relies in large part on the retention of its qualified staff. In order to ensure retention of the best staff, accelerated promotions continue to be implemented. In addition, training opportunities are being offered to staff to enhance their skills in view of future career opportunities once the International Tribunal closes.

B. *Ad Litem* Judges

35. The *ad litem* Judges have continued to be a valuable and necessary resource for the efficient conduct of trials at the International Tribunal. During the reporting period, the International Tribunal assigned two *ad litem* Judges to the Bench in the *Martić* trial and two to the Bench in the *Prlić et al.* trial. Two *ad litem* Judges will be called upon in July 2006 to serve on the Bench in *Milutinović et al.*, in addition to one each for the *Beara et al.* and *Šešelj* cases. With respect to the three trials of multiple accused, one Reserve Judge has been assigned to the *Prlić et al.* case and two more will be assigned, one to *Milutinović et al.* and one to *Beara et al.* in order to avoid the situation of having to restart a trial should one or more of the Judges on the Bench be unable to continue with the proceedings. In this respect, the International Tribunal is extremely grateful to the Council for having adopted resolution 1660 (2006), which amended Article 12 and Article 13 *quater* of the Statute increasing the number of *ad litem* Judges from 9 to 12 and allowing for the assignment of Reserve Judges to these trials.

36. The International Tribunal is most grateful to the Council for the adoption of resolution 1668 (2006), which extended the term of service of *ad litem* Judge Canivell to allow him to finish the *Kvočka* case. As I stated in my last report, the principle reason for the change in the estimated end date for this trial is to ensure equality of arms for the Defence in the presentation of its case. The International Tribunal has a responsibility to the international community to ensure that due process and human rights are not sacrificed in favor of speeding up trials.

C. Referral of Cases Involving Intermediate and Lower Ranking Accused to Competent National Jurisdictions

37. The transfer of cases involving intermediate and lower ranking accused to national courts in the former Yugoslavia pursuant to Rule 11*bis* of the Rules remains paramount to the successful implementation of the International Tribunal's Completion Strategy as well as for the legacy of the Tribunal. To date, the Prosecutor has filed 13 referral motions involving 21 accused. Of those, one motion was withdrawn by the Prosecutor, one of the accused, Ivica Rajić, pled guilty before the International Tribunal, and one motion was denied. The Referral Bench has granted 7 motions and three are pending decision. Of those motions granted, 10 accused appealed to the Appeals Chamber and five appeal decisions were issued. One of those appeal decisions referred a case of two accused back to the Referral Bench and the other four decisions upheld the referrals. Currently, six accused have been referred to the Special War Crimes Chamber of Bosnia and Herzegovina and two accused have been referred to Croatia for trial before its domestic courts.

38. While none of the trials referred to the region thus far have reached completion, the International Tribunal expects that these trials will be conducted with full adherence to international norms of due process, and they have been referred on that basis. The International Tribunal considers this a critical factor not only due to the fundamental importance of protecting the rights of the accused, but also because of under Rule 11*bis* the Prosecution may request the Referral Bench to take back a referred case if that case has not been conducted fairly.

39. It cannot be emphasized enough that, if the referral of cases to the region is going to be successful, it is essential that the international community provide full support to building the capacity of domestic jurisdictions and prisons in the former Yugoslavia. To encourage that support and to highlight the importance of developing domestic judicial and prison capacity in the region to the International Tribunal's Completion Strategy, I participated on 31 March 2006 in the Second Donors' Conference on the funding needs of the State Justice Sector Institutions in Bosnia and Herzegovina held in Brussels. Unfortunately, the sum of money pledged by the donor community to date has fallen far short of what is required to ensure that these judicial institutions are able to fulfill their essential function of entrenching the rule of law in Bosnia and Herzegovina. I urge the international community to continue their support for developing local judiciaries and prisons in the region. It is the local courts that will continue the work started by the international community in establishing the International Tribunal long after the International Tribunal closes its doors. In the meantime, if the judicial institutions in the region do not receive sufficient support such that they are able to conduct these trials in accordance with international standards of due process, the international community faces the possibility that referred cases may have to be deferred back to the International Tribunal.

40. In May of this year, I traveled to Sarajevo to show my support for the work of the State Court of Bosnia and Herzegovina and to continue the cooperation between the Judges of the International Tribunal and the Judges of the Special War Crimes Chamber. During that visit, I participated in a round table seminar with the Judges and identified particular areas where increased cooperation of the International Tribunal would facilitate the work of the Special War Crimes Chamber. I also met with the High Representative of Bosnia and Herzegovina and brought to his attention areas where his

intervention was necessary to ensure the success of the State Court and the entrenchment of the rule of law in Bosnia and Herzegovina. Similar issues were brought to the attention of the President of the Republic of Bosnia, the President of the Council of Ministers and the Minister of Justice of Bosnia and Herzegovina. I also attended a follow up meeting of the Brussels Second Donors' Conference and urged the international community to pledge sufficient funds to ensure the continued reform of the judiciary in Bosnia and Herzegovina.

41. Aware of its own responsibilities for ensuring that due process is accorded in cases referred to the former Yugoslavia, the International Tribunal has focused greater attention on implementing and supporting initiatives to build the local capacity of national courts through participation in training programs and hosting working visits. The International Tribunal has continued to support initiatives to encourage information transfer between the region and the International Tribunal. For example, in early March 2005, the International Tribunal facilitated a working visit of a delegation from the judiciary of Serbia and Montenegro to the International Tribunal. Officials from the War Crimes Chamber of the Belgrade District Court, the Serbian Supreme Court, the Serbian Prosecutor's Office and the Witness protection unit met with senior International Tribunal officials in a number of working meetings, briefings and roundtables. The visit was also an opportunity for Judges from the War Crimes Chamber to provide International Tribunal staff with a briefing of a recently completed case in that court, thereby strengthening the two-way communication between local courts and the International Tribunal. The working visit also allowed an opportunity for staff of the International Tribunal to discuss the Completion Strategy and for members of the visiting delegation to explain the status of investigations and trials in Serbia and Montenegro. Questions of witness protection measures and victim/witness support were also addressed, and Judges of the International Tribunal participated in a round table discussion with their counterparts from Serbia and Montenegro.

42. In the last six months, a number of capacity building initiatives have also been undertaken in the region. In December of 2005, the International Tribunal's Liaison Officer in Bosnia and Herzegovina gave a presentation at an internal training workshop of the Court Management Section of the State Court of Bosnia and Herzegovina. The Chief of the International Tribunal's office for Legal Aid and Detention Unit held a presentation in January for around 25 attorneys at a training seminar organized by the Criminal Defence Section of the State Court of Bosnia and Herzegovina. In March 2006, the International Tribunal's Outreach Programme participated in a training seminar for journalists organized in Split, Croatia, by the Zagreb-based non-governmental organization ("NGO"), Documenta. The aim of the seminar was to help journalists acquire skills for reporting on war crimes trials before the International Tribunal and local courts. The International Tribunal was represented by the OTP Spokesperson and the Registry's Liaison Officer in Bosnia and Herzegovina. In addition, during the reporting period, the International Tribunal's Liaison Officer in Bosnia and Herzegovina has made numerous public appearances to raise awareness about the mechanisms of transition from the International Tribunal to the national courts. He has also participated in several roundtable meetings and liaised with numerous interlocutors from civil society, the media, state institutions and international organizations present in Bosnia and Herzegovina, advocating for various forms of support to the domestic judiciary's efforts to effectively prosecute those responsible for violations of international humanitarian law. These events have reached over one hundred people while the media

appearances, including several on the national broadcasters, have extended to over half the population of Bosnia and Herzegovina.

43. In addition, the International Tribunal continues to distribute key materials in the region, including updated Judgements in English and BCS to the court of Bosnia and Herzegovina and the local NGO community. The International Tribunal's website has continued to serve as a vital tool for communities in the former Yugoslavia to access up to date information. During the past six months, over one million pages have been accessed on the BCS site while 75 thousand pages have been opened on the Albanian site. In addition, during this same period, a condensed Macedonian web site has been launched, which has seen nearly 300 pages accessed in the month of April. Also, the number of people who have watched or listened to International Tribunal proceedings in the last six months has been notable. Since January 2006, over 90,000 people have accessed the BCS video feed, nearly 50,000 viewed the English feed, and around 1,300 made use of the Albanian feed. In addition, nearly 20,000 listened to court proceedings via the audio feed available on the website in English, French, BCS and Albanian.

44. The International Tribunal has remained committed to explaining to communities in the region the facts established in cases before the International Tribunal. "Foča 1992" was a conference held in Belgrade in January of this year, and its particular aim was to allow International Tribunal representatives to explain to a Belgrade audience, which included Serbian judicial officials, students, members of civil society and representatives of international organizations and the diplomatic corps, how the International Tribunal investigated, prosecuted, tried and convicted perpetrators who committed crimes in Foča. The conference is part of the International Tribunal's continuing efforts to contribute to peace and reconciliation in the former Yugoslavia by communicating the facts about war crimes committed there, facts that the International Tribunal has established in its courtrooms beyond reasonable doubt.

45. Finally, people who have access to the International Tribunal's website can download specially produced information compiled for a series of conferences organized by the International Tribunal's Outreach Programme entitled "Bridging the Gap Between the International Tribunal and Communities in Bosnia and Herzegovina - Tribunal cases in relation to war crimes committed in Brčko, Foča, Konjic, Prijedor and Srebrenica," which were held between 2004 - 2005. The information has been downloaded nearly 5000 times and the continuing attention shown is indicative of the great interest and support the International Tribunal has generated in the region for information on its completed cases.

D. Cooperation of States with the International Tribunal

46. The success of the International Tribunal in implementing its mandate has always depended upon the full cooperation from States in the former Yugoslavia. Each year that cooperation shows signs of improvement, but the International Tribunal remains particularly troubled by the failure to arrest the six remaining high-level accused, in particular Radovan Karadžić and Ratko Mladić.

47. Since the submission of my last report, the number of remaining fugitives has been reduced from seven to six following the arrest of Ante Gotovina in Spain in December 2005. I am pleased to report that the transfer of Milan Lukic to the International Tribunal from the Argentine authorities occurred on 21 February 2006. However, the International Tribunal remains concerned that Dragan Zelenovic, detained by the Russian authorities since October 2005, has yet to be transferred to the International Tribunal. In November 2005, International Tribunal officials traveled to Moscow at the request of the Russian authorities and, while there were undertakings in preparation for transferring Zelenovic to the International Tribunal on 15 March 2006, that transfer did not occur. International Tribunal officials have continued their negotiations with the Russian authorities, however, the latest reports indicate that the Russian authorities have released Zelenovic from their custody.

48. As stated above, the International Tribunal remains seriously concerned by the failure to arrest the six remaining high-level accused. Bringing these fugitives to justice is paramount to the process of peace and reconciliation in the region and they must not be allowed to wait the International Tribunal out. I urge the Security Council and the international community to ensure that this does not occur. They must be arrested now and tried by the International Tribunal.

IV. Updated Prognosis Regarding Implementation of the Completion Strategy

49. In my last report to the Council, I confirmed that trials will indeed run into 2009 and identified a number of factors that will influence whether the conclusion of trials by 2009 remains feasible. One factor is the untested nature of the multi-accused trials. As I explained earlier, the Judges have spent a considerable amount of time in pre-trial activity to ensure that those trials run smoothly. To counter the length and complexity of the indictments, the Judges have used Rule 73*bis* to limit the amount of time accorded to the Prosecution in presenting its case. These measures are necessary measures not only for the International Tribunal being able to meet its Completion Strategy objectives, but also for upholding the right of the accused to an expeditious trial and the right of those in pre-trial detention to be tried within a reasonable time. Other measures, as identified above, are being implemented by the Judges to control the conduct of these trials in order to ensure that they are run as efficiently as possible. However, whether these measures will have their full impact remains to be seen. Factors out of the Judges' control, including illness of the accused or counsel, the availability of witnesses and State cooperation, can impact upon the speed at which these cases proceed.

50. As mentioned previously, to reduce the number of cases on its docket, the International Tribunal has continued to refer cases of lower and intermediate ranking accused back to the region. Thus far, the International Tribunal has transferred 4 cases involving 8 accused, and 6 cases involving 8 accused remain pending at the Referral Bench or Appeals Chamber level.[11] If all of these cases are referred, 10 cases will be removed from the International Tribunal's docket. However, no other cases are currently earmarked for referral as they do not involve intermediate or lower level accused. This was a limitation placed on referrals by the Security Council in resolution 1503 (2003). However, it may be possible for the International Tribunal to make further use of the referral process if the

[11] See Enclosure V.

Security Council determines it necessary to meet Completion Strategy dates. As I indicated earlier, while the International Tribunal has referred cases of lower and mid-level ranking accused, no trials have yet been completed and thus, no objective assessments have been made.

51. A crucial issue that remains is the timing of the trials of the outstanding fugitives and in particular, those of Ratko Mladic and Radovan Karadžic. The International Tribunal has urged the international community to secure the arrest of these fugitives for over a decade without results. If these fugitives are arrested in the near future, then they may be tried within the 2009 estimate. However, if they are not arrested soon and the Council presses the dates of the Completion Strategy, they will evade justice as rendered by the International Tribunal. This would send a strong message to the international community that impunity will go unpunished if sufficient time passes. The Secretary-General, Kofi Annan, during his address to the Staff of the International Tribunal on 12 April 2006, stated that the work of the International Tribunal is sending the message to those who commit war crimes "that they will not get away with it".[3] I urge the Security Council and the international community to avoid this possibility by making every effort to ensure that these fugitives are delivered to the International Tribunal without delay.

V. Conclusion

52. In conclusion, the last six months have arguably been among the most difficult in the International Tribunal's history with the deaths of Slobodan Milošević and Milan Babić. Notwithstanding the challenges encountered, the International Tribunal pressed on full speed with its work, resulting in a very productive period in the International Tribunal's history. To recapitulate, the Trial Chambers have rendered three Judgements and have issued 187 pre-trial decisions. The Appeals Chamber has rendered three Judgements and 121 decisions, including pre-appeal, referral, and interlocutory decisions.

53. The estimate of all trials finishing by the end of 2009 may still hold provided that the multi-accused trials run smoothly; the cases referred to the former Yugoslavia are not deferred back to the International Tribunal under Rule 11*bis*; the Prosecution's case is effectively limited in time in each trial; creative methods for efficient trial and appeals' management continue to be devised and implemented by the Judges; and the six remaining high level fugitives are transferred to the jurisdiction of the International Tribunal without delay. I note that, despite this ever-increasing tide of judicial activity, some of the factors affecting the Completion Strategy remain beyond the International Tribunal's control. As a consequence, the provision of an accurate estimate as to the conclusion of the International Tribunal's work remains more of an art than a science.

54. I stress that, as this report demonstrates, the International Tribunal remains absolutely committed to doing all within its power to meet its obligations under the Completion Strategy while upholding norms of due process. The following concrete measures taken by the Judges of the International Tribunal during this reporting period provide undeniable evidence of that commitment.

[3] United Nations Secretary-General Kofi Annan, SG/SM/10139, "Staff Address", 12 April 2006.

Enhanced effectiveness of pre-trial proceedings

- Transfer of pre-trial cases to the Trial Chamber hearing the trial at the earliest possible stage;
- Determination by Pre-Trial Judges of the admissibility of adjudicated facts and documentary evidence from other proceedings before the International Tribunal;
- Establishment of clear work-plans and strict timetables by Pre-Trial Judges at the pre-trial stage and increased involvement of Pre-Trial Judges in monitoring implementation of work-plans through Rule 65*ter* conferences;
- Proactive involvement of Pre-Trial Judges in focusing and shortening the Prosecution's case by ordering timely specification of the trial strategy, earlier production of the pre-trial brief, and early production of witness statements to be used at trial;
- Review by Pre-Trial Judge of all statements and documents to be presented by the Prosecution in court at the pre-trial stage in order to call upon the Prosecution as appropriate to reduce the number of witnesses to be called, shorten the time required for examination-in-chief, fix the number of crime sites comprised within one or more charges, encourage Prosecution to focus on strongest parts of case, and make hard decisions about the length of proceedings;
- Proactive engagement by the Pre-Trial Judges in streamlining the Defence case by requesting earlier submission of the pre-trial brief, requiring specification as to the areas of the Prosecution's case which it disputes, and ordering early disclosure of Defence expert testimony during the pre-trial phase;
- Greater use by Pre-Trial Judges of the power to sanction parties for failing to comply with disclosure obligations in a timely manner;

Reorganization of chambers and enhanced effectiveness of trial proceedings

- Reorganization of the work of the Trial Chambers without delay to ensure the three permanent Judges in the *Milosevic* case remained fully engaged in judicial work;
- Commencement of the three trials of multi-accused involving a total of 21 accused;
- Completion of the remodeling of the International Tribural's three courtrooms such that six accused may now be tried in Courtroom One, three in Courtroom Two, and nine in Courtroom Three, allowing a total of 18 accused to be tried simultaneously;
- Greater use by Trial Judges of written witness statements in lieu of hearing evidence by way of examination-in-chief, greater use of depositions for the taking and presentation of non-controversial evidence, and the exercise of greater control over cross-examination of witnesses by the parties.

Cooperation with domestic courts

- Referral of six mid to lower level accused to stand trial in Bosnia and Herzegovina and two to stand trial in Croatia;

- Intensified cooperation with domestic jurisdictions in the former Yugoslavia to facilitate the transfer of cases.

55. In looking to the future, the International Tribunal will make every effort to develop additional tools to improve the efficiency of its trial and appeals proceedings. In that regard, the International Tribunal will continue to maximize the use of the existing Rules. The Tribunal will also closely monitor their implementation so that, where necessary, Rules will be amended. In addition, Judges of the International Tribunal will proceed with their active involvement in the management of all phases of the trials, including through engagement of both parties in cases in order to streamline the trials as much as possible.

56. The International Tribunal will also intensify its ongoing cooperation with domestic courts in the former Yugoslavia as part of its effort to build their judicial capacity and to ensure that the accused are afforded a fair trial. The effective transfer of the International Tribunal's historic work of bringing to justice perpetrators of genocide, war crimes and crimes against humanity to national jurisdictions in the region will be a key component of its legacy. It is these courts that will continue the mission of the international community to ensure that these crimes under international humanitarian law will not go unpunished. Thus, I urge the Member States of the Security Council to provide every assistance to the development of the rule of law in the region.

57. As stated in my previous report to the Security Council[5], the existence of the International Tribunal has demonstrated to the world that the international community is dedicated to vindicating those who have suffered from the perpetration of genocide, war crimes and crimes against humanity. As a result, 161 persons have been charged by the International Tribunal and proceedings against 91 accused have concluded. In addition, the Appeals Chamber of the International Tribunal has completed 12 ICTR cases and proceedings involving 16 accused. Furthermore, the International Tribunal has served as an inspiration for the formation of other international criminal tribunals for purposes of prosecuting persons responsible for violations of international humanitarian law in other parts of the world. These tribunals are now benefiting from the International Tribunal's jurisprudence and experience. The unprecedented support of the international community to international criminal justice must not waiver so as to undermine its message that impunity for violations of international humanitarian law will not be tolerated. It is crucial that the remaining high-level fugitives, in particular Mladić and Karadžić, be brought to justice before the International Tribunal. Only then will the restoration of peace and security in the former Yugoslavia be fully realized.

Enclosure I

1. Persons Convicted or Acquitted after Trial between 1 December 2005 and 25 May 2006 (2 persons)

Case	Name	Former Title	Initial Appearance	Judgement
[illegible]	[illegible]	Brig. Commander, ABiH	9-Aug-01	15-Mar-06 (Convicted)
	[illegible]	Commander, ABiH	9-Aug-01	15-Mar-06 (Convicted)

[illegible]

2. Persons Pleading Guilty between 1 December 2005 and 25 May 2006 (0 persons)

Case	Name	Former Title	Initial Appearance	Judgement
None were so accused who pleaded guilty during the reporting period				

[illegible]

3. Cases Terminated Without Judgement between 1 December 2005 and 25 May 2006 (1 person)

Case	Name	Former Title	Initial Appearance	Reason
[illegible]	Slobodan Milošević	President, FRY	3-Jul-01	Death of Accused

4. Persons Convicted of Contempt between 1 December 2005 and 25 May 2006 (2 persons)

Case	Name	Initial Appearance	Judgement
[illegible]	Ivica Marijačić	14 June 2005	10-Mar-06 (Convicted)
	Markica Rebić	14 June 2005	10-Mar-06 (Convicted)

Legend:

ABiH — *Army of Bosnia and Herzegovina*
FRY — *Federal Republic of Yugoslavia*

Enclosure II

1. Trials in Progress (12 accused, 5 cases)				
Case	**Name**	**Former Title**	**Initial Appearance**	**Comments**
1	Naser Orić	Military and Police commander, ABiH	15 April 2003	"Srebrenica" Judgement expected June 2005
2	Momčilo Krajišnik	President of RS National Assembly	7 April 2000	"Bosnia & Herzegovina" Judgment expected July 2006
3	Mile Mrkšić	Colonel and Commanding Officer, JNA	16 May 2002	"Vukovar Hospital" Trial commenced 10 October 2005
	Miroslav Radić	Captain, JNA	16 May 2002	
	Veselin Šljivančanin	Major, JNA	3 July 2003	
4	Milan Martić	President, "RSK"	21 May 2002	"RSK" Trial commenced 13 December 2005
5	Jadranko Prlić	President, "Herceg-Bosna"	6 April 2004	"Herceg-Bosna" Trial commenced 26 April 2006
	Bruno Stojić	Head Department of Defence, "Herceg-Bosna"		
	Slobodan Praljak	Assistant Minister Defence, "Herceg-Bosna"		
	Milivoj Petković	Commander, HVO		
	Valentin Ćorić	Chief of Military Police Administration, HVO		
	Berislav Pušić	Military Police Commanding Officer, HVO		
	Total Persons: 12			

All figures as of 25 May 2006

2. Contempt Cases in Progress (4 accused, 3 cases)			
Case	**Name**	**Initial Appearance**	**Comments**
1	Stjepan Šešelj	14 June 2005	Assigned to Trial Chamber
	Domagoj Margetić		
2	Josip Jović	14 October 2005	Assigned to Trial Chamber
3	Marijan Križić	26 September 2005	Assigned to Trial Chamber
	Total Persons: 4		

All figures as of 25 May 2006

Legend:

ABiH: *Army of Bosnia and Herzegovina*
Herceg-Bosna: *Croatian Republic of Herceg-Bosna*
HVO: *Croatian Defence Council*
JNA: *Yugoslav People's Army*
RS: *Republika Srpska*
RSK: *Republic of Serbian Krajina /Republika SrpskaKkrajina*

Enclosure III

1. Arrivals at the Tribunal between 1 December 2005 and 25 May 2006 (2 accused)					
	Name	Former Title	Place of crime	Arrival Date	Initial Appearance
1	Ante Gotovina	Commander, Split Military District, HV	Krajina, Croatia	10 December 2005	12 December 2005
2	Milan Lukić	Member, Bosnian-Serb-run Special Operations Military Unit ("White Eagles")	Višegrad, BiH	21 February 2006	24 February 2006
Total new arrivals in reporting period: 2					

2. Remaining Fugitives (7 accused)				
	Name	Former Title	Place of Crime	Date indictment
1	Radovan Karadžić	President, RS	BiH	25 July 1995
2	Ratko Mladić	Commander, Main Staff, VRS	BiH	25 July 1995
3	Dragan Zelenović*	Sub Commander, Military Police, Serb forces	Foča, BiH	20 April 2001
4	Vlastimir Đorđević	Assistant Minister, Serbian Ministry of Internal Affairs, VJ	Kosovo	25 September 2003
5	Goran Hadžić	President, "SAO SBWS"	Croatia	28 May 2004
6	Stojan Župljanin	Head or Commander of the Serb Operated Regional Security Services Centre	Krajina, Croatia	6 October 2004
7	Zdravko Tolimir	Assistant Commander, Intelligence and Security of the Main Staff, VRS	Srebrenica and Zepa	10 February 2005
	Total Remaining Indictees: 7			

* *In custody in Russia, awaiting transfer*

Legend

HV: *Croatian Army*
RS: *Republika Srpska*
SAO SBWS: *Serbian Autonomous District, Slavonia Baranja and Western Srem*
VRS: *Bosnian Serb Army*
VJ: *Armed Forces of the Federal Republic of Yugoslavia*

Enclosure IV

Accused Awaiting Trial as of 25 May 2006 (35 Accused, 16 Cases)			
Case	Name	Former Title	Initial Appearance
1	Pasko Ljubičić	Commander 4th Military Police Battalion, HVO	30-Sept-01
2	Dragoljub Ojdanić*	Chief of Staff, VJ	26-Apr-02
	Nikola Šainović*	Deputy Prime Minister, FRY	3-May-02
3	Milan Milutinović*	President Republic of Serbia	27-Jan-03
	Vladimir Lazarević*	Commander, Pristina Corps, VJ, Kosovo	7-Feb-05
	Sreten Lukić*	Head Staff, Serbian Ministry of Internal Affairs, VJ, Kosovo	6-Apr-05
	Nebojša Pavković*	General, Commander 3rd VJ Army, Kosovo	25-Apr-05
4	Vojislav Šešelj	President, SRS	26-Feb-03
5	Franko Simatović*	Commander, Special Operations Unit, State Security Services ("DB"), Republic of Serbia	2-Jun-03
	Jovica Stanišić*	Head, State Security Services ("DB"), Republic of Serbia	12-Jun-03
6	Mitar Rašević	Commander, Serb-run Kazneno-Popravni Dom prison guards, BiH	18-Aug-03
	Savo Todović	Deputy Commander, Serb-run Kazneno-Popravni Dom prison guards, BiH	19-Jan-05
7	Vladimir Kovačević*	Commander, JNA	3-Nov-03
	Ljubiša Beara	Colonel, Chief of Security, VRS	12-Oct-04
	Drago Nikolić	Chief of Security, Drina Corps, VRS	23-Mar-05
	Ljubomir Borovčanin	Deputy Commander, Ministry of Interior Special Police Brigade, RS	7-Apr-05
	Vujadin Popović	Lt. Colonel, Assist. Commander, Drina Corps, VRS	18-Apr-05
	Vinko Pandurević	Commander, Zvornik Brigade, VRS	31-Mar-05
	Milorad Trbić	Deputy Commander, 3rd Battalion, Zvornik Brigade, VRS	13-Apr-05
	Milan Gvero*	Assistant Commander, VRS	2-Mar-05
	Radivoje Miletić*	Chief of Operations, Deputy Chief of Staff, VRS	2-Mar-05
8	Ivan Čermak*	Assistant Minister Defence, Commander of Military Police, Croatia	12-Mar-04
	Mladen Markač*	Special Police Commander, Croatia	
9	Dragomir Milošević	Chief Commander, Romanija Corps, VRS	7-Dec-04
10	Rasim Delić*	Commander, ABiH	3-Mar-05
11	Momčilo Perišić*	Chief of General Staff, VJ	9-Mar-05
12	Ramush Haradinaj*	Commander, KLA	14-Mar-05
	Idriz Balaj	Commander, KLA	14-Mar-05
	Lahi Brahimaj	Deputy Commander, KLA	14-Mar-05

	Name	Former Title	Initial Appearance
13	Mićo Stanišić*	Minister, Internal Affairs, RS	17-Mar-05
14	Johan Tarčulovski	Personal Security Officer for President, FYROM	21-Mar-05
	Ljube Boškoski	Minister of Interior, FYROM	1-Apr-05
15	Ante Gotovina	Commander, Split Military District, HV	12-Dec-05
16	Sredoje Lukic	Bosnian-Serb-run Special Operations Military Unit	20-Sept-05
	Milan Lukic	("White Eagles")	24-Feb-06
	Total Persons: 35		

* *On provisional release. In total, there are 17 Accused awaiting trial who are on Provisional Release.*

Legend

ABiH *Army of Bosnia and Herzegovina*
BiH *Bosnia and Herzegovina*
FRY *Federal Republic of Yugoslavia*
FYROM *Former Yugoslav Republic of Macedonia*
Herceg-Bosna *Croatian Republic of Herceg-Bosna*
HV *Croatian Army*
HVO *Croatian Defence Council*
JNA *Yugoslav People's Army*
KLA *Kosovo Liberation Army*
RS *Republika Srpska*
RSK *Republic of Serbian Krajina*
SRS *Serbian Radical Party*
VRS *Bosnian Serb Army*
VJ *Armed Forces of the Federal Republic of Yugoslavia*

Enclosure V

11bis motions pending as of 25 May 2006 (8 accused, 6 cases)				
	Name	Former Title	Motion filed	Status
1	Dragan Zelenović *	Sub-commander Military Police, paramilitary leader, Foča, BiH	21-Sep-04	Motion granted, pending appeal
2	Vladimir Kovačević	Commander, JNA	28-Oct-04	Pending decision
3	Savo Todović	Deputy Commander, Foča Kazneno-Popravni Dom prison staff, BiH	01-Nov-04	Motion granted, pending appeal
	Mitar Rašević	Commander, Foča Kazneno-Popravni Dom prison guards, BiH	04-Nov-04	Motion granted, pending appeal
4	Stevan Lukić	Member, Serb paramilitary unit, BiH	01-Feb-05	Pending decision
	Milan Lukić	Member, Serb paramilitary unit, BiH		
5	Pasko Ljubičić	Commander, HVO	04-Nov-04	Motion granted, pending appeal
6	Milorad Trbić	Deputy Commander, Third Battalion VRS	3-May-06	Pending decision
	Total Persons: 8			

* fugitive

11bis motions granted as of 25 May 2006 (8 accused, 4 cases)				
Case	Name	Former Title	Motion filed	Status
7	Dušan Fustar	Shift Commander, Serb-run Omarska Detention Camp, BiH	02-Sep-04	Motion granted, pending appeal
	Momčilo Gruban	Shift Commander, Omarska Detention Camp, BiH		
	Dušan Knežević	Detention Camp staff, Omarska, BiH		
	Željko Mejakić	Commander, Omarska Detention Camp, BiH		
8	Rahim Ademi	Major-General, HVO	02-Sep-04	Case referred to Croatia 14 Sept. 2005 *(Decision not appealed)*
	Mirko Norac	Commander, HVO		
9	Radovan Stanković	Para Military Unit, Serb forces, Foča, BiH	21-Sep-04	Case referred to BiH 17 May 2005 *(Affirmed on appeal 1 Sept. 2005)*
10	Gojko Janković	Military Police Commander, Serb forces, Foča, BiH	21-Sep-04	Case referred to BiH 22 July 2005 *(Affirmed on appeal 15 Nov. 2005)*
	Total Persons: 8			

11bis motions denied as of 30 November 2005 (1 accused, 1 case)				
Case	Name	Former Title	Motion filed	Status
11	Dragomir Milošević	Chief Commander, Romanija Corps, VRS	31-Jan-05	Motion to refer denied 8 July 2005
	Total Persons: 1			

11bis motions withdrawn as of 30 November 2005 (4 accused, 2 cases)				
Case	**Name**	**Former Title**	**Motion filed**	**Status**
12	Mile Mrkšić	Colonel and Commanding Officer, JNA	08-Feb-05	OTP withdrew motion on 30 June 2005
	Mile Radić	Captain, JNA		
	Veselin Šljivančanin	Major, JNA		
13	Ivica Rajić	Commander, HVO	28-July-05	OTP filed notice to withdraw motion on 10 Nov. 2005 after guilty plea on 26 Oct. 2005
	Total Persons: 4			

Enclosure VI

APPEALS COMPLETED FROM 1 DECEMBER 2005 [1]
(with date of Filing and Decision)

INTERLOCUTORY

ICTY		
1.	Jankovic IT-96-23/2-Ar65.1	27/09/05-01/12/05
2.	Delic IT-04-83-Ar72	21/07/05-08/12/05
3.	Mejakic IT-02-65-AR65.2	16/12/05-16/12/05
4.	Pandurevic and Trbic IT-05-86-Ar73.1	11/10/05-24/01/06
5.	Dragomir Nikolaic IT-05-88-AR65.1	17/11/05-24/01/06
6.	Tolimir et al IT-04-80-Ar73.1	13/10/05-27/01/06
7.	Jovic IT-95-14 & 14/2 AR 72.2	05/01/06-03/03/06
8.	Krnjic IT-95-14-R77.4-Ar72.1	13/01/06-03/03/06
9.	Lahi Brahimaj IT-04-84-Ar65.2	10/11/05-09/03/06
10.	Haradinaj IT-04-84-Ar65.1	19/10/05-10/03/06
11.	Milosevic IT-02-54-Ar65.1	03/03/06-17/03/06
12.	Milosevic IT-02-54-Ar108bis.3	20/12/05-06/04/06
13.	Milosevic IT-02-54-Misc.1	13/04/06-12/05/06
14.	Milutinovic IT-05-87-Ar108bis.2	02/12/05-12/05/06
15.	Milutinovic IT-05-87-Ar108bis.1	02/12/05-12/05/06
ICTR		
1.	Nzirorera - ICTR-98-44-AR72	14/10/05-12/04/06
2.	Nzirorera - ICTR-98-44-AR72.6	14/10/05-12/04/06
3.	Karemera et al - ICTR-98-44-AR73.6	07/03/06-28/04/06

FROM JUDGEMENT

ICTY		
1.	Nikolić IT-02-60/1-A	30/12/05-08/03/06
2.	Stakić IT-97-24-A	11/08/03-22/03/06
3.	Martinovic/Naletelic IT-98-34-A	07/04/03-03/05/06
ICTR		

OTHER

ICTR		
1.	Bagilishema ICTR-95-1A-A	22/11/05-16/12/05
2.	Kamuhanda ICTR-99-54A-A	13/03/06-07/04/06

REFERRAL

ICTY		
1.	Rasevic & Todovic IT-97-25-1-Ar11bis.1	25/07/05-23/02/06
2.	Mejakic IT-02-65-Ar11bis.1	04/08/05-07/04/06

REVIEW/CONTEMPT

[1] **Total number of Appeals Completed from 1 December 2005 = 25**

Interlocutory Appeals = 18 Contempt = 0 Referral = 2
Appeals from Judgement = 3 Review = 0 Other = 2

Enclosure VII

APPEALS pending as of 25 MAY 2005 [2]

(with date of filing)

INTERLOCUTORY

ICTY

1.	Seselj IT-03-67-Ar72.1	02/02/06
2.	Borovcanin IT-05-88-Ar65.2	17/05/06

ICTR

1.	Karemera et al - ICTR-98-44-AR73	12/12/05
2.	Karemera et al - ICTR-98-44-AR73.7	07/03/06
3.	Seromba – ICTR-2001-66-AR	26/04/06
4.	Muvunyi - ICTR-00-55A-AR73(C)	15/05/06

CONTEMPT

ICTY

1.	Marijacic and Rebic IT-95-14-R77.2-A	20/03/06

OTHER

FROM JUDGEMENT

ICTY

1.	Simic IT-95-9-A	17/11/03
2.	Galic IT-98-29-A	15/12/03
3.	Brdanin IT-99-36-A	30/09/04
4.	Blagojevic/Jokic IT-02-60-A	23/02/05
5.	Strugar IT-01-42-A	02/03/05
6.	Haidiovic IT-01-48-A	18/12/05
7.	Limaj IT-03-66-A	30/12/05
8.	Bralo IT-95-17-A	05/01/06
9.	Hadzihasanovic/Kubura IT-01-47-A	13/04/06

ICTR

1.	Nahimana et al ICTR-99-52-A	12/12/03
2.	Ntagerura et al ICTR-99-46-A	04/05/04
3.	Gacumbitsi ICTR-01-64-A	18/07/04
4.	Ndindabahizi ICTR-01-71-A	13/08/04
5.	Muhimana ICTR-95-1B-A	20/05/05
6.	Simba ICTR-01-76-A	14/12/05

REFERRAL

1.	Ljubicic IT-00-41-Ar11bis.1	25/04/06

REVIEW

ICTY

1.	Blaskic	IT-95-14-R	29/07/04
2.	Zigic	IT-98-30/1-R	07/12/05
3.	Radic	IT-98-30/1-R.1	27/02/06

ICTR

1.	Niyitegeka	ICTR-96-14-R	27/10/04
2.	Rutaganda	ICTR-96-3-R	13/04/06

[2] **Total number of Appeals pending = 28**

Interlocutory Appeals = 6 Contempt = 1 Referral = 1
Appeals from Judgement = 15 Review = 5 Other = 0

Enclosure VIII

MOTIONS disposed of as of 25 MAY 2005
(with date of disposition)

ICTY

1. Ljubicic IT-00-41-Ar11bis.1 09/05/06
2. Ljubicic IT-00-41-Ar11bis.1 09/05/06
3. Radic IT-98-30/1-R.1 05/05/06
4. Simic IT-95-9-A 05/05/06
5. Simic IT-95-9-A 05/05/06
6. Radic IT-98-30/1-R.1 05/05/06
7. Blaskic IT-95-14-R 04/05/06
8. Bralo IT-95-17-A 02/05/06
9. Bralo IT-95-17-A 02/05/06
10. Limaj et al IT-03-66-A 27/04/06
11. Limaj et al IT-03-66-A 26/04/06
12. Limaj et al IT-03-66-A 26/04/06
13. Blagojevic & Jokic IT-02-60-A 18/04/06
14. Martinovic & Naletelic IT-98-34-A 18/04/06
15. Marijacic & Rebic IT-95-14-R77.2-A 11/04/06
16. Marijacic & Rebic IT-95-14-R77.2-A 07/04/06
17. Limaj et al. IT-03-66-A 05/04/06
18. Halilovic IT-01-48-A 23/03/06
19. Stakić IT-97-24-A 16/03/06
20. Blaskic IT-95-14-R 14/03/06
21. Blagojevic & Jokic IT-02-60-A 10/03/06
22. Haradinaj IT-04-84-Ar65.1 10/03/06
23. Blagojevic & Jokic IT-02-60-A 09/03/06
24. Brahimaj IT-04-84-Ar65.2 03/03/06
25. Brianin IT-99-36-A 03/03/05
26. Simić IT-95-9-A 23/02/06
27. Blaskic IT-95-14-R 22/02/06
28. Galic IT-98-29-A 16/02/06
29. Limaj et al IT-03-66-A 16/02/06
30. Blaskic IT-95-14-R 14/02/06
31. Blagojevic & Jokic IT-02-60-A 14/02/06
32. Brianin IT-99-36-A 13/02/06
33. Galic IT-98-29-A 13/02/06
34. Simić IT-95-9-A 03/02/06
35. Halilovic IT-01-48-A 03/02/06
36. Bralo IT-95-17-A 02/02/06
37. Bralo IT-95-17-A 02/02/06
38. Blaskic IT-95-14-R 30/01/06
39. Naletilic and Martinovic IT-98-34-A 01/02/06
40. Stakić IT-97-24-A 24/01/06
41. Blaskic IT-95-14-R 24/01/06
42. Blagojevic & Jokic IT-02-60-A 18/01/06
43. Blagojevic & Jokic IT-02-60-A 17/01/06
44. Blagojevic & Jokic IT-02-60-A 17/01/06
45. Marijacic & Rebic IT-95-14-R77.2-A 16/01/06
46. Strugar IT-01-42-A 12/01/06

47. Milutinovic et al IT-05-87-108bis.1 & 108bis.2 16/12/05
48. Strugar IT-01-42-A 16/12/05
49. Haradinaj IT-04-84-Ar65.1 16/12/05
50. Strugar IT-01-42-A 08/12/05
51. Blagojevic & Jokic IT-02-60-A 06/12/05
52. Brjanin IT-99-36-A 06/12/05
53. Blaskic IT-95-14-R 05/12/05
54. Blaskic IT-95-14-R 05/12/05
55. Blaskic IT-95-14-R 05/12/05
56. Blagojevic & Jokic IT-02-60-A 02/12/05

ICTR

1. Muvunyi ICTR-00-55A-AR73(c) 18/05/06
2. Simba ICTR-01-76-A 17/05/06
3. Ndindabahizi ICTR-01-71-A 11/05/06
4. Nahimana et al ICTR-99-52-A 05/05/06
5. Seromba ICTR-01-66-Ar 02/05/06
6. Rutaganda ICTR-96-3-R 27/04/06
7. Muhimana ICTR-95-1B-A 26/04/06
8. Nahimana et al ICTR-99-52-A 21/04/06
9. Simba ICTR-01-76-A 13/04/06
10. Nahimana et al ICTR-99-52-A 07/04/06
11. Kamuhanda ICTR-99-54A-A 07/04/06
12. Kamuhanda ICTR-99-54A-A 04/04/06
13. Ndindabahizi ICTR-01-71-A 04/04/06
14. Karemera et al ICTR-98-44 04/04/06
15. Karemera et al ICTR-98-44 04/04/06
16. Karemera et al ICTR-98-44 24/03/06
17. Karemera et al ICTR-98-44 16/03/06
18. Karemera et al ICTR-98-44 16/03/06
19. Nahimana et al ICTR-99-52-A 09/03/06
20. Nahimana et al ICTR-99-52-A 27/02/06
21. Nahimana et al ICTR-99-52-A 23/02/06
22. Nahimana et al ICTR-99-52-A 23/02/06
23. Muhimana ICTR-95-1B-A 22/02/06
24. Gacumbitsi ICTR-01-64-A 09/02/06
25. Ntagerura et al ICTR-99-46-A 08/02/06
26. Ntagerura et al ICTR-99-46-A 08/02/06
27. Muhimana ICTR-95-1B-A 01/02/06
28. Nahimana et al ICTR-99-52-A 31/01/06
29. Ntagerura et al ICTR-99-46-A 30/01/06
30. Karemera et al ICTR-98-44 27/01/06
31. Simba ICTR-01-76-A 25/01/06
32. Simba ICTR-01-76-A 24/01/06
33. Nahimana et al ICTR-99-52-A 23/01/06
34. Ndindabahizi ICTR-01-71-A 06/01/06
35. Gacumbitsi ICTR-01-64-A 16/12/05
36. Simba ICTR-01-76-A 16/12/05
37. Simba ICTR-01-76-A 16/12/05
38. Karemera et al ICTR-98-44 16/12/05
39. Nahimana et al ICTR-99-52-A 13/12/05
40. Nahimana et al ICTR-99-52-A 12/12/05

41. Gacumbitsi ICTR-01-64-A 08/12/05
42. Nahimana et al ICTR-99-52-A 08/12/05
43. Ntagerura et al ICTR-99-46-A 07/12/05
44. Nahimana et al ICTR-99-52-A 06/12/05
45. Nahimana et al ICTR-99-52-A 06/12/05
46. Nahimana et al ICTR-99-52-A 06/12/05
47. Nahimana et al ICTR-99-52-A 06/12/05

ANNEX II

ASSESSMENT OF CARLA DEL PONTE, PROSECUTOR OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, PROVIDED TO THE SECURITY COUNCIL PURSUANT TO PARAGRAPH 6 OF SECURITY COUNCIL RESOLUTION 1534

INTRODUCTION

1. This report follows up the assessment of 15 December 2005, and details the continuing progress made by the Tribunal towards implementing its completion strategy. The report outlines measures implemented recently, and indicates steps still to be taken. The untimely death of Slobodan Milosevic, coming towards the end of his trial, will have a limited effect on the Tribunal's overall workload, but the evidence produced in that case will be very useful in other cases.

2. The Security Council has expressed its wish that only the most senior leaders be prosecuted in The Hague. That is being done, and all remaining trials involve senior figures who were in high level positions of command and authority. Six trials will continue to run simultaneously, but whereas in December 2005 there were 7 accused before the Trial Chambers, and 35 accused awaiting trial, after the end of December 2006 it is expected that there will be 25 accused on trial at the same time, with only 10 accused awaiting trial.

3. The Prosecutor views the completion strategy as having three components, each designed to ensure that the remaining cases are prosecuted fairly and efficiently. The first is the joinder of as many accused as can properly be tried together in the same trial. In the past months the Tribunal's three courtrooms have been re-configured and their capacity expanded to accommodate three, six and nine accused. The first of the multiple accused trials, involving six senior Bosnian Croat leaders and commanders, started in April. A second such trial, involving nine accused charged with crimes in Srebrenica, is due to start in July. A third, involving six leading Serbian political and military figures indicted for crimes in Kosovo, is also scheduled to begin this summer. Unfortunately, an attempt to join three other cases together was rejected: one of these related cases is therefore underway against a single accused, and another will begin in the autumn. There is little or no scope left for joining remaining cases under this first leg of the strategy.

4. There remains, of course, the need to arrest the six remaining fugitives. Their arrival will not reduce the Tribunal's workload, but their early arrival would considerably lessen the impact on the trial schedule. If arrests occur quickly, a number of opportunities still remain to have the new accused joined with other indictees awaiting trial. However, with every new trial that begins, such opportunities may close.

5. The second leg of the completion strategy has been to transfer as many cases as possible to national courts. Motions have been filed in thirteen cases. The Prosecutor considers that this

second leg of the strategy has been implemented as far as possible, and that there remains little or no scope for sending further cases to the former Yugoslavia for prosecution.

6. The third and final leg of the strategy is to take all possible remaining steps to ensure that the Tribunal's own process is as efficient as possible without taking shortcuts that would render prosecutions unfair, and without cutting corners that would place at risk prosecutions for crimes such as genocide and crimes against humanity, which are by their very nature extensive undertakings. The Prosecutor considers that the breadth of remaining indictments cannot be further reduced without beginning to imperil the prospects of their successful prosecution. She regards the decision not to proceed with any count on a confirmed indictment as being within her exclusive authority, but, especially having regard to the interests of victims, she would not consider it to be a proper exercise of her discretion to reduce the scope of an indictment for reasons simply of lack of time, and in the absence of any reason connected to the merits of the case or the availability of evidence.

7. The Prosecutor does, however, believe, even at this stage of the Tribunal's existence, that there is still scope for refinement of the Rules of Procedure and Evidence in order to improve the pre-trial process and speed up the presentation of evidence at trial. It may be that reforms can be introduced without formal rule changes, and the Prosecutor welcomes the report of the Working Group on Speeding up Trials which proposes a number of developments within existing practice. Nevertheless, it might well be that a reformulation of some of the existing judicial powers to identify and resolve uncontested issues at an early stage would result in a better use of valuable court time. The amendment of the Rules is, of course a matter for the Judges, but the Prosecutor remains committed to making proposals in order to design a package of what might be the final substantial set of rule changes in the ICTY.

8. These are currently the major completion strategy issues. If all three legs of the above strategy, joinder of accused, referral of cases, and refinement of procedures, continue to be pursued actively, and if the remaining fugitives are arrested soon and quickly delivered to The Hague, the Prosecutor considers that the Tribunal will be in a position to complete its trial programme within 18 months after the target date of the end of 2008, with the last trials beginning in the course of 2009.

PROGRESS MADE TOWARDS THE IMPLEMENTATION OF THE COMPLETION STRATEGY

Arrest of Fugitives

9. In the reporting period, one accused, Milan Lukic, was surrendered to the custody of the Tribunal. He was indicted on 26 October 1998 and is charged with seven counts of crimes against humanity and five counts of violations of the laws and customs of war. These crimes were committed against the Muslim population of Visegrad, in eastern Bosnia and

Herzegovina. He was arrested on 8 August 2005 in Argentina and transferred to The Hague on 21 February 2006. A motion requesting his deferral to Bosnia and Herzegovina was filed by the Prosecutor on 1st February 2005.

10. Dragan Zelenovic was arrested by the Russian authorities on 22 August 2005. Arrangements were made between the ICTY Registrar and the Russian authorities to transfer him to The Hague earlier this year. After the death of Milosevic, these arrangements were unilaterally cancelled by the Russian authorities and, on 7 May 2006, the OTP learnt from the media that Zelenovic had been released under obscure circumstances. The Prosecutor, together with the Registrar, immediately asked the Russian Embassy in The Hague for explanations. The Russian Federation never provided the ICTY with any explanation. On 10 May, the Minister of Foreign Affairs of Bosnia and Herzegovina informed the OTP of the Russian intention to deport or extradite this fugitive to Bosnia and Herzegovina, from where he could be transferred to The Hague. This can only be construed as disregard by the Russian Federation for the international obligation to arrest and transfer "without undue delay", according to the relevant provisions of the ICTY Statute and several Security Council Resolutions adopted under Chapter VII. Zelenovic is charged with seven counts of crimes against humanity and seven counts of violations of the laws or customs of war. He is, in particular, accused of multiple cases of rape against Muslim women in Foca, in the eastern part of Bosnia and Herzegovina. A motion has been filed on 29 November 2004 requesting the transfer of Zelenovic to Bosnia and Herzegovina in accordance with Rule 11 bis.

11. Six persons indicted by the ICTY are still at large. Unfortunately, the most important indictees, including those mentioned in several Security Council resolutions, Radovan Karadzic and Ratko Mladic, are among them. They are both accused of the gravest crime, the crime of genocide. The Prosecutor remains committed to do her utmost to locate and apprehend them. She has followed up on her initiatives to better co-ordinate the activities carried out by the various national authorities and international bodies in order to locate and arrest them. In the reporting period, she travelled several times to Belgrade and Sarajevo to discuss issues related to fugitives with the highest authorities, including the President and Prime Minister of Serbia, the Prime Minister of Republika Srpska within Bosnia and Herzegovina, as well as the High Representative in Bosnia and Herzegovina, the commanders of NATO and EUFOR and various other senior officials. The Prosecutor was also asked by the European Commission to assess the level of co-operation provided by Serbia and Montenegro to the ICTY, and she did so in three occasions in the reporting period. She also met twice the EU Commissioner in charge of enlargement and her office maintains close links with the institutions of the European Union, as they continue to demonstrate a strong interest and a consistent support for the work of the ICTY.

Transfer of cases

12. Over the last two years, the Prosecutor's Office has taken various initiatives in order to prepare for the transfer of indicted cases to the domestic jurisdictions of Bosnia and Herzegovina,

Croatia, and Serbia and Montenegro. The transfer of mid- and lower-level perpetrators, which is a key component of the completion strategy, is not well-understood, nor accepted by groups of victims, in particular in Bosnia and Herzegovina. The Prosecutor has received several letters from important groups of victims and families of victims urging her to refrain from transferring cases to the State Court in Sarajevo. These groups expressed a deep mistrust towards the Court. It is obviously up to the Council to decide whether this dimension of the completion strategy must be revised.

13. In accordance with the Security Council resolutions 1503 and 1534, which prescribe that only the most senior leaders responsible for the most serious crimes must be tried in The Hague, thirteen motions involving twenty-one mid- and lower-level accused have been filed by the Prosecutor between 1 September 2004 and 28 July 2005, requesting the deferral of indicted cases pursuant to Rule 11 *bis* of the Rules of Procedure and Evidence. So far, one case involving two accused, Rahim Ademi and Mirko Norac, was transferred to Croatia and three cases with altogether 6 accused, Radovan Stankovic, Gojko Jankovic, Zeljko Mejakic, Momcilo Gruban, Dusan Fustar and Dusko Knezevic were transferred to Bosnia and Herzegovina. One motion involving three accused was withdrawn by the prosecution, while another motion involving one accused was denied by the Chambers. In another case, the accused, Ivica Rajic, has plead guilty on 26 October 2005. He was sentenced to 12 years of imprisonment on 8 May 2006. Another accused who was intended to be transferred to Bosnia and Herzegovina in accordance with Rule 11*bis*, Miroslav Bralo, plead guilty on 19 July 2005 and was sentenced to 20 years on 7 December 2005. The six remaining motions are at various stages of the procedure.

14. Even after the transfer of these indicted cases to national jurisdictions, the Office of the Prosecutor is not completely discharged of all its obligations regarding them. Under the applicable Rule, the Prosecutor may monitor proceedings in the national courts, and the OSCE has agreed that it will monitor these trials, also on behalf of the Prosecutor. The Chambers have furthermore ordered the Prosecutor to report at regular intervals on the proceedings. Under Rule 11*bis*, the ICTY remains able to revoke the transfer of a case, should it assess that a fair trial is not being conducted. Until now, however, no serious problem can be reported.

15. In addition to these transfers of indicted cases under Rule 11*bis*, the OTP has also started to handover non-indicted cases, i.e. investigative material, to national prosecutors for their review and further investigations. Co-operation has been launched with the relevant authorities in Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia and Serbia for this purpose. For instance, the OTP will provide the State Prosecutor of Bosnia and Herzegovina with more than a dozen such non-indicted cases involving about 40 suspects.

16. The OTP has carried out numerous activities to ensure a smooth transfer of these proceedings. Meetings were held with the State Prosecutors of Serbia, Bosnia and Herzegovina and Croatia, as well as with the Minister of Justice of the former Yugoslav Republic of Macedonia. OTP officials have also taken part in several meetings organised by the OSCE in order to advance the regional cooperation in judicial matters. Progress has been made, but serious obstacles

remain to be overcome. The impossibility under current national laws to extradite nationals or to transfer proceedings in cases involving sentences higher than 10 years are such obstacles that need to be tackled urgently.

Measures taken to improve efficiency of prosecution cases

17. The OTP has been actively working on joining cases involving the same crime base. The multiple accused trials will result in a number of efficiencies and savings by allowing for multiple trials to be consolidated into one trial, thus saving considerable time and courtroom space. In particular, the crime base will not need to be proven repeatedly, and therefore the same testimony and evidence can be heard only once rather than in multiple trials. One motion involving seven accused indicted for crimes committed in Kosovo was filed on 1st April 2005. The Chambers took a positive decision on 8 July 2005. A second motion was filed on 10 June 2005 with a view to join the cases of nine persons accused for the Srebrenica genocide. A positive decision was taken by the Chambers on 21 September 2005. Both trials are scheduled to begin towards the middle of 2006.

18. However, as I reported to the Council in December, there is one remaining fugitive in each of the two cases, Vlastimir Djordjevic for the Kosovo case and Zdravko Tolimir for the Srebrenica case. These two accused will have to be tried separately, even though the crime base is the same as their co-accused, if they are not brought to The Hague in the next weeks, thereby causing significant efficiency losses, including court time and travel for witnesses as well as repetition of trials.

19. The Prosecutor's policy of joining accused in a single trial was applied previously in the case Prlic et al, involving six accused. This trial has started on 26 April 2006.

20. The Prosecutor has welcomed the report of the Working Group on Speeding up trials and its proposals for making changes to certain aspects of the Tribunal's practice in managing cases. In addition, the Prosecutor will continue to point to other measures that could be taken in the future, including keeping the Rules of Procedure and Evidence under continued review, particularly as they relate to the pre-trial stage of cases and the presentation of evidence in the courtroom.

Measures taken to improve the management and efficiency of the Office of the Prosecutor

21. The management of the Office closely reflects the progress made in the implementation of the completion strategy. 2006 will be the busiest period in the ICTY's life, with the advent of multi-accused trials. Significant reductions in staff were made in the Office of the Prosecutor following the achievement of the first phase of the completion strategy, and the size of the investigation division has been reduced by 37% or 79 posts. Furthermore, in the context of the 2006-2007 biennial budget, the redeployment of 15 posts from the investigation division to the prosecution division and the appeals section has been proposed and agreed. This move is aimed at addressing the increased trial activities resulting from the multi-accused trials and the

growing appeals work load as envisaged by the completion strategy. The budget also foresees a reduction on non-post items, such as travel and General Temporary Assistance, resulting from efforts to streamline our processes. The OTP budget for 2006-7 amounts to $72 million and reflects an overall net reduction in posts and non-posts amounting to over $11 millions or 13.7% in comparison with the 2004-5 OTP budget.

EXTERNAL FACTORS IMPACTING ON THE IMPLEMENTATION OF THE COMPLETION STRATEGY

Arrest of Fugitives

22. The main factor hampering the implementation of the completion strategy has been and remains the failure to arrest and transfer all persons indicted by the Tribunal. Six of them remain at large. In the reporting period, not a single fugitive was taken into custody.

23. The Office of the Prosecutor does not have the power or resources to carry out intelligence or arrest operations on its own. The primary responsibility to locate and arrest the remaining fugitives belongs to the Governments of Serbia and Montenegro and the authorities of Republika Srpska within Bosnia and Herzegovina. In the past months, the Prosecutor and her Office have strengthened bilateral relations with the relevant authorities in Serbia and Montenegro, in Bosnia and Herzegovina as well as with the EUFOR and NATO. Regarding these two institutions, some of the problems highlighted in the last assessment have been addressed, but communications problems still arise at times.

24. Radovan Karadzic, the former President of Republika Srpska, seems to have vanished. There hasn't been any credible information on his past or present location for more than a year now. There are rumours that he could be hidden in monasteries in Serbia, Montenegro or Republika Srpska within Bosnia and Herzegovina, or even that he could have disappeared in other countries. However, these assumptions are not based on evidence which is in the possession of the Prosecutor. What is worrying is that neither the authorities of Republika Srpska, nor the Serbian Government are actively trying to locate Karadzic. The network protecting Karadzic is located both in Republika Srpska and in Serbia and Montenegro. The Committee for the Defense of Karadzic is based in Belgrade, and his books are published in Serbia. Part of his family lives in Montenegro, and he can count on the support of leading church officials in Montenegro.

25. Regarding Ratko Mladic, the former leader of the Bosnian Serb Army, the Serbian authorities have admitted that he was hidden by the Army of Serbia and Montenegro at least until June 2002. The OTP knows that he was still receiving logistical support from the military in 2003. There are even indications that such support was provided to him clandestinely through 2005. It is by no means certain that this support has ceased. The Prosecutor met Prime Minister Kostunica in Belgrade on 6 February and on 29 March. A comprehensive report on the

activities carried out by Serbia in the search for Mladic was forwarded to the OTP on 29 April. It is troubling that the various information received at these different times are sometimes inconsistent or even contradictory. For instance, the Prosecutor learnt in March that the Serbian authorities had discovered the location used by Mladic in the first half of February, as the owner of the flat, who was physically with Mladic, was under surveillance. But in April, the information provided by Serbia showed that this very same location had not been used in February 2006, but in November 2005. In the mean time, the OTP had raised concern about the fact that someone under surveillance could meet Mladic without triggering an arrest operation.

26. The Prosecutor's assessment of the operation carried out by Serbia against Mladic is that it suffers grave dysfunctions. There is no recognisable strategy. The coordination between the various agencies, civilian and military, is not working properly at all. Media – and therefore Mladic and his supporters – are immediately informed of the actions undertaken. Despite the assurances given to her by the Serbian authorities, the Prosecutor is therefore not convinced that Serbia is seriously trying to locate and arrest Mladic rather than to force him to surrender voluntarily.

27. In addition to Radovan Karadzic and Ratko Mladic, Vlastimir Djordjevic, Zdravko Tolimir, Goran Hadzic and Stojan Zupljanin are at large. The OTP does not possess precise information about their current location. However, for all six remaining fugitives, leads can be found in Serbia and Montenegro and in Bosnia and Herzegovina. Therefore, the responsibility for their arrest lies mainly with these States. A much more aggressive attitude must be adopted by these countries in order to locate and arrest these fugitives.

28. Vlastimir Djordjevic, a former Police General accused of crimes committed in Kosovo against Kosovo Albanians, is still likely to be in the Russian Federation. The Office of the Prosecutor has passed available information to the Russian authorities on his possible location. The Russian Federation has assured the Prosecutor that Djordjevic was not found at the mentioned location and that investigations are on-going. It is urgent that Djordjevic be brought to The Hague, because the trial of his co-accused is due to begin towards the middle of this year. The same is true for Zdravko Tolimir, a former Assistant of Ratko Mladic for Intelligence and Security, who should be tried together with his eight co-accused in a trial due to start in the second half of 2006. The last available information indicates that Tolimir is in Serbia. Separate trials would divert significant resources, including courtroom time, and therefore significantly impact on the completion strategy.

29. Goran Hadzic, a former leader of the so-called Republika Srpska Krajina, was indicted on 4 June 2004 for serious crimes committed against Croats and other non-Serbs in Croatia. He was tipped off and left his house just hours after the indictment was given to the Ministry of Foreign Affairs of Serbia and Montenegro. The last available information indicates that he is in Serbia. Stojan Zupljanin was a senior official of the so-called "Autonomous Region of Krajina" in Bosnia and Herzegovina. He was indicted on 14 March 1999 for serious crimes aimed at destroying the Bosnian Muslim and Bosnian Croat communities in that region.

Although his precise location is not known, there are reliable indications showing that he is in Serbia and Montenegro or in Republika Srpska within Bosnia and Herzegovina. After his transfer to the Hague, the OTP will file a motion requesting a joint trial in The Hague with Mico Stanisic, a former Minister of Interior of Republika Srpska within Bosnia and Herzegovina, who has been on provisional release since 25 July 2005.

Other Forms of Co-operation of States and International Institutions

30. There are still problems in the co-operation provided by Serbia and Montenegro regarding access to documents and witnesses. It is often only after long delays that such access is eventually granted. A new arrangement is now in place to facilitate OTP's access to archives, but it has not yet been fully tested. With the positive result of the referendum on the independence of Montenegro, on 21 May, there is a risk that problems will arise in those areas of co-operation which are within the competence of State Union organs, such as the National Council for Co-operation. This body is responsible for granting the OTP access to documents and witnesses. It is essential that continuity be assured in this dimension of the co-operation.

31. Regarding Bosnia and Herzegovina, one of the remaining problems, aside from the fugitives, has been the missing wartime archives of Republika Srpska. Very recently, these archives, or parts of them, have surfaced. The OTP is now proceeding to an analysis of the documents that were found.

32. There is no significant problem with Croatia. The Government usually responds to requests for assistance in a timely and satisfactory manner. Whenever difficulties arise on specific issues, they can be solved in a pragmatic and efficient way.

33. On 12 May 2005, the Prosecutor notified the Chamber of her intention to refer back four cases to the former Yugoslav Republic of Macedonia. This decision is a direct consequence of the completion strategy. On 16 February 2006, the Prosecutor met the Minister of Justice to discuss the modalities of the transfer. It was decided at the meeting that, for judicial reasons, the transfer process will commence at the beginning of 2007. On this particular issue, there was so far no problem in the co-operation provided by Skopje. However, on other issues, the OTP had to intervene at the political level to overcome problems in the co-operation.

34. In one case in particular, Haradinaj et al., the OTP relies on the co-operation provided by another United Nations body, the UNMIK. The main requests from the OTP relate to the access to documents and to the protection of witnesses. The problems reported in December to the Council have unfortunately not been overcome, quite the opposite. The OTP is in essence confronted to three sets of problems. First, there is a wide public perception in Kosovo that Ramush Haradinaj enjoys the support of the UNMIK, including the personal support of its Head, SRSG Jessen-Petersen. This perception, which is justified by numerous facts, sends a chilling effect on ICTY witnesses and deters potential witnesses from speaking to OTP investigators. Second, the UNMIK's handling of witnesses has been negligent in several instances, so that the confidence in the system's ability to protect them has been lost. Third,

the UNMIK is deliberately obstructing OTP's access to relevant documents or key information contained in documents. The co-operation provided by the UNMIK is therefore highly unsatisfactory.

CONCLUSION

35. As demonstrated by the present report, the Office of the Prosecutor is doing the maximum to keep up as much as possible with the timeframe of the completion strategy. The first deadline of this strategy was met with all the remaining investigations completed by the end of 2004. Additionally, the Office of the Prosecutor continues to work closely with the other organs of the Tribunal to speed up the trials so as to meet the objectives set in Resolutions 1503 and 1534.

36. The successful implementation of the completion strategy however largely depends on the Governments of Serbia and of Republika Srpska within Bosnia and Herzegovina. They must now take decisive action to bring all six remaining fugitives to The Hague as soon as possible. It would be inconceivable that the Tribunal completes its mandate while Radovan Karadzic and Ratko Mladic, both accused of the gravest crime, the crime of genocide, remain at large. The Council may wish to consider further action to encourage these Governments to finally fulfil their international obligation under Chapter VII of the Charter.